

AMNESTY INTERNATIONAL REPORT 2014-2015

(Nepal Country Entry, Page No. 267 to 269)

NEPAL

FEDERAL DEMOCRATIC REPUBLIC OF NEPAL

Head of state: Ram Baran Yadav

Head of government: Sushil Koirala

Impunity was further entrenched as the Constituent Assembly passed an act to establish a transitional justice mechanism with the power to recommend amnesties for crimes under international law committed during the country's civil war (1996-2006), in defiance of a Supreme Court ruling. National institutions protecting human rights were weakened by a lack of political will, and impunity persisted for past and current human rights violations. Discrimination, including on the basis of gender, caste, class, ethnic origin and religion, remained rife. Arbitrary detention, torture and extrajudicial executions were reported throughout the year.

BCKGROUND

The second Constituent Assembly was formed on 21 January; the first was dissolved in May 2012 after failing to draft a new Constitution. Sushil Koirala of the Nepali Congress Party was appointed as Prime Minister on 11 February. The new Constituent Assembly pledged to promulgate a new Constitution by 22 January 2015, although it remained unclear whether this could be achieved as political parties debated the model of federalism and greater autonomy for ethnic minorities and Indigenous Peoples. In July, the government adopted its fourth Five Year Human Rights National Action Plan. In September, a year after the terms of previous Commissioners of the National Human Rights Commission (NHRC) had expired, the government elected former Chief Justice Anup Raj Sharma as Chair and nominated new commissioners in October.

TRANSITIONAL JUSTICE

On 25 April, the parliament passed the Truth and Reconciliation Commission (TRC) Act, establishing two commissions, a TRC and a Commission on Enforced Disappearances, with the power to recommend amnesties, including for serious human rights violations. This was despite a Supreme Court ruling in January that a similar 2013 TRC ordinance with the power to recommend amnesties contravened international human rights law and the spirit of the 2007 Interim Constitution. Victims' families filed a petition with the Supreme Court for the provisions on amnesties to be amended.

IMPUNITY

Accountability for human rights abuses and victims' rights to justice, truth and reparation continued to be seriously undermined by police failures to register First Information Reports (FIRs), conduct investigations and follow court orders, including in cases of alleged extrajudicial executions, human trafficking, gender-based violence, and torture and other ill-treatment.

In July, forensic evidence collected by the NHRC on the 2003 enforced disappearance and extrajudicial execution of five students in Dhanusha district confirmed the identities of the victims, who had been blindfolded and shot at close range with ammunition used only by the Nepalese Army at the time. The police had delayed their investigation for the four previous years citing a lack of evidence, and had not acted on the new findings by the end of the year.

ABUSES IN THE TERAI REGION

A longstanding culture of impunity meant that, although the activities of armed groups operating in the Terai (Madhes) region declined, violations by police continued to be reported, including arbitrary detention, torture and extrajudicial executions. Police failed to file FIRs, conduct investigations or prosecute those responsible for these crimes.

C.K. Raut, a vocal proponent of independence for the Terai, was arrested and charged with sedition on 8 October for his alleged involvement in “anti-national activities”; he had called for an “independent Madhes” at a public rally in Morang. He was later arrested several times while on bail for attempting to hold public rallies. Several of his supporters were also arrested and injured in police crackdowns at public meetings.

MIGRANT WORKERS' RIGHTS

At least half a million Nepalese migrated abroad through official channels for work, largely in low-skilled sectors such as construction, manufacturing and domestic work. Many continued to be trafficked for exploitation and forced labour by recruitment agencies and brokers. Recruiters deceived migrant workers about their pay and working conditions, and charged fees in excess of government-imposed limits, forcing many to take up loans at exorbitant rates. Women aged under 30 were still banned from migrating for work to Gulf states. While this was intended to protect women, it meant that many were forced to use informal channels, thus increasing their risk of exploitation and abuse. Concerns on health and safety were highlighted as deaths of workers abroad reached 880 between July 2013 and July 2014.

The government made some efforts to address trafficking and corruption in the recruitment process. However, in practice, unscrupulous recruitment agencies continued to operate with impunity while trafficked victims and their families faced enormous obstacles in accessing complaints and compensation mechanisms, such as the Foreign Employment Welfare Fund.

TORTURE AND OTHER ILL-TREATMENT

Torture and other ill-treatment of men, women and children continued to be perpetrated by police, particularly during pre-trial detention, to extract confessions and intimidate individuals. In April, the UN Human Rights Committee reminded Nepal of its obligation to enact a law defining and criminalizing torture, and to introduce effective sanctions and remedies for the crime of torture and other ill-treatment in line with international standards. At the end of 2014 no action had been taken to address these issues.

DISCRIMINATION

Discrimination, including on the basis of gender, caste, class, ethnic origin and religion, persisted. Victims were subject to exclusion and ill-treatment, and torture including rape and other sexual violence. Women from marginalized groups, including Dalits and impoverished women, continued to face particular hardship because of multiple forms of discrimination. The Caste-based

Discrimination and Untouchability Act of 2011 was applied in only a handful of criminal cases due to a lack of awareness about the Act and victims' fears of reporting attacks. Rape laws continued to be inadequate and to reflect discriminatory attitudes towards women.

SEXUAL AND REPRODUCTIVE RIGHTS AND RIGHT TO HEALTH

Women and girls in Nepal continued to experience serious gender-based discrimination. This limited their ability to control their sexuality and make choices related to reproduction, including use of contraception; to challenge early marriages; to ensure adequate antenatal and maternal health care; and to access sufficient nutritious food. It also put them at risk of domestic violence, including marital rape. One consequence of these factors was that women and girls continued to be at high risk of developing the reproductive health condition uterine prolapse, often at a very early age.

Government efforts to eradicate gender discrimination against women and girls continued to be ineffective in reducing women's risk of uterine prolapse. Despite progress in reducing maternal mortality, the unmet need for contraception remained high and significant numbers of women and girls were unable to access skilled birth attendants. Disparities across ethnic groups and geographical regions meant this was a particular problem for Dalit women, Muslim women and women living in the Terai. The government's Five Year Human Rights National Action Plan expressed, among other things, the intention of the Ministry of Health and Population to "adopt preventive measures to end uterine prolapse." This welcome step, however, did not contain details on the measures or on how the government planned to ensure their implementation.

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